

**RECEIVED**

AUG 12 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
IB Docket No. 97-142

IB Docket No. 97-142

AirTouch is one of the world's leading providers of mobile services through cellular and other terrestrial systems. As well as its significant domestic cellular operations, AirTouch currently holds ownership interests in mobile telephony carriers in eleven countries, paging services in Spain and Portugal, and international long-distance service in Japan. AirTouch also holds an investment in Globalstar, L.P., a large LEO satellite service provider, and will provide mobile satellite services in several countries throughout the world, including the U.S.<sup>2</sup>

<sup>2</sup> AirTouch notes that the Commission has also issued a Further Notice proposing to eliminate entry barriers for satellite service providers, in light of the GATS framework. AirTouch will document its support for those proposals in separate comments. See Further Notice, IB Docket 96-111, FCC 97-252 (Jul 17, 1997).

11-17, 1987)  
No. of Copies rec'd.  
List ABCDE

AirTouch supports the proposal to eliminate the ECO test. As the Notice recognizes, the WTO agreement requires reciprocal and open market access, and establishes mechanisms to enforce this requirement.<sup>3</sup> In addition, sixty-five governments have undertaken enforceable obligations to ensure that dominant carriers provide non-discriminatory interconnection.<sup>4</sup> These factors justify elimination of a separate, case-by-case evaluation of market access conditions in reviewing foreign carrier license applications and requests for Section 214 authority. Moreover, these factors demonstrate that there is a global consensus that market entry barriers for foreign carriers should be eliminated. AirTouch has consistently supported the position that free entry to domestic markets is the best method to encourage other nations to open their markets; the comments reflect that this principle should be national policy. As the U.S. Trade Representative notes, the U.S. must now lead the way in prompt, effective implementation of our commitments.<sup>5</sup>

A number of the commenters on this proceeding appear to be concerned that the Commission might be less than fully compliant with the terms or policies of the GATS agreement in its approach to market entry, because the Notice is ambiguous as to how the Commission will continue to evaluate the potential for anti-competitive effects or consider other factors as directed by the Executive Branch when reviewing applications for market entry by foreign carriers.<sup>6</sup>

---

<sup>3</sup>Notice, para. 22-23, citing General Agreement on Trade in Services, April 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, 33 I.L.M. 1167 (1994), art. XVI.

<sup>4</sup>Notice, para. 24.

<sup>5</sup>Comments of the U.S. Trade Representative at 2.

<sup>6</sup>See, e.g., Comments of France Telecom at 3-5; Comments of the Government of Japan at 1-2.

AirTouch is sensitive to these concerns, and urges the Commission to remain faithful to the provisions of the Notice establishing a “strong presumption that denial of a radio license, foreign ownership waiver, or Section 214 application would not serve the public interest,” and that denial of an application would be an extraordinary and unusual occurrence, requiring “compelling evidence” and “serious concerns raised by the Executive Branch.”<sup>7</sup>

As GTE notes, while the nation’s GATS obligations do permit consideration of competitive and other public interest factors, adoption of additional and unnecessary regulation could undermine confidence in the mutual trust essential to mutual removal of barriers to market entry.<sup>8</sup> Any public interest factors to be considered should be clearly explained so that foreign carriers will have sufficient notice as to the requirements of a particular application, and clearly established as within those factors permitted by the GATS so as to assure foreign nations that FCC actions will respect our multilateral treaty commitments.

The Commission should resist the arguments of those commenters seeking to protect their domestic markets at the expense of reduced opportunities overseas for all of American enterprise. WorldCom, for example, advocates retaining the present public-interest standard, notwithstanding other nations’ commitments under the GATS.<sup>9</sup> This approach will not encourage the governments of other nations to open their markets more fully, and ignores the significant work of the Executive Branch in arriving at the GATS agreement, as well as the efforts of other countries who have eliminated legal restrictions on market entry.<sup>10</sup> Moreover,

---

<sup>7</sup>See Notice, paras. 74-75.

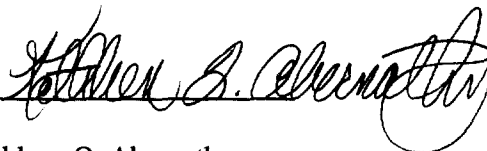
<sup>8</sup>Comments of GTE at 15.

<sup>9</sup>Comments of WorldCom at 5.

<sup>10</sup>See, e.g., Comments of Telecom Finland at 7, n.16 (noting that Finland does not currently impose any legal restrictions on U.S. or other foreign entities entering the Finnish telecommunications market).

open entry produces direct benefits for American consumers by introducing new sources of competition.<sup>11</sup> AirTouch urges the Commission to adopt its proposal to eliminate the ECO test, make any other public interest criteria explicit and consistent with the GATS, and thereby promote overseas opportunities for American telecommunications providers.

Respectfully submitted,

By: 

Kathleen Q. Abernathy  
David A. Gross

AirTouch Communications  
1818 N Street, Suite 800  
Washington, D.C. 20036  
(202) 293-3800

Charles D. Cosson  
Lynn Van Housen

AirTouch Communications  
One California Street, 29th Fl.  
San Francisco, CA 94111  
(415) 658-2434

August 12, 1997

---

<sup>11</sup>See Notice, para. 5.